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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,674	12/31/2001	John Erven Jenne	H052617.1130US0	9034

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EXAMINER	
PITARO, RYAN F	

ART UNIT	PAPER NUMBER
2174	

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/038,674	JENNE ET AL.	
	Examiner	Art Unit	
	Ryan F Pitaro	2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 December 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *11/20/02*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-26 have been examined.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1,2,4-5,11-16,19,21 are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson ("Anderson", US# 6438750).

As per claim 1, Anderson teaches a method of displaying a commercial message on a display device of a computer during a user waiting time, the method comprising the steps of:

selecting the commercial message from a non-volatile memory (column 4 lines 17-22); and

displaying the selected commercial message on the display device during the user waiting time (Column lines 45-49).

As per claim 2, Anderson teaches a method wherein the commercial message comprises an advertisement message (Column 4 lines 45-49).

As per claim 4, Anderson teaches a method wherein the step of selecting the commercial message further comprises the steps of:

tracking Internet information associated with the computer (Column 3 lines 44-48); and

choosing the commercial message to download to the non-volatile memory from a website based on the Internet information (Column 3 lines 51-55).

As per claim 5, Anderson teaches a method wherein the user waiting time comprises a computer boot time (Column 4 lines 1-4).

As per claim 11, Anderson teaches a computer system for displaying a commercial message on a display device during a user waiting time, the computer system comprising:

a display device (figure 2 item 148);

a processor coupled to the display device (Figure 2 item 104); and

a memory coupled to the processor (Column 7 lines 49-54) and containing code adapted to display the commercial message (Column 7 lines 41-46) during the user waiting time.

As per claim 12, Anderson teaches a system wherein the memory comprises a flash read-only memory (ROM) (Column 7 lines 49-54).

As per claim 13, Anderson teaches a system wherein the memory comprises a hard drive (Column 4 lines 41-43).

As per claim 14, Anderson teaches a system wherein the memory is updated with the commercial message from the Internet when the computer is connected to a website (Column 7 lines 58-59).

As per claim 15, Anderson teaches a system wherein the code comprises Basic Input/Output System (BIOS) code (Column 4 lines 29-31).

As per claim 16, Anderson teaches a system wherein the code comprises a commercial messaging application.

As per claim 19, Anderson teaches a system wherein display of the commercial message is selectively disabled (Column 3 lines 14-17).

As per claim 21, Anderson teaches a system wherein the type of commercial message is user selectable (Column 5 lines 50-53).

4.

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 22 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Petrecca et al (Petrecca", US# 5781894).

As per claim 22, Petrecca teaches a non-intrusive computer-based system for displaying commercial messages the system comprising:

a means for detecting a user waiting time of a computer (Column 3 lines 1-3); and

a means for selecting a commercial message to display on the computer during the user waiting time (Column 3 lines 1-3).

As per claim 26, Petrecca teaches a system wherein the commercial message comprises an advertisement message (Column 3 lines 1-3).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson ("Anderson", US# 6438750) in view of Kreynin et al ("Kreynin", US# 6067570).

As per claim 3 Anderson fails to disclose a message which includes productivity enhancement tips. However, Kreynin teaches a method wherein the commercial message comprises productivity enhancement tips for the computer (Column 8 lines 56-65). Therefore, it would have been obvious to an artisan at the time of the invention to combine Anderson's method and Kreynin's teaching to benefit from the updating of standard screens that are presented to the PC operator during times of waiting (Column 8 lines 56-60).

8. Claims 7,9-10,17-18,20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson ("Anderson", US# 6438750) in view of Petrecca et al ("Petrecca", US# 5781894).

As per claim 7, Anderson fails to disclose a method wherein the user waiting time comprises a computer screen saver time. However, Petrecca teaches a waiting time comprising of a screen saver time (Column 2 lines 61-67). Therefore it would have been obvious to an artisan at the time of the invention to combine Petrecca's teaching with Anderson's method so the method is configured to detect waiting time periods and to present the advertising messages only during this time (Column 3 lines 1-3).

As per claim 9, Petrecca also teaches a method wherein the commercial message is displayed for a duration according to a time weight assigned to the commercial. (Column 1 lines 64-67).

As per claim 10, Petrecca also teaches a method wherein the commercial message is repeated according to a frequency weight assigned to the commercial message (Column 3 lines 14-17).

As per claim 17, Petrecca also teaches a system wherein displaying the commercial message in the memory is selectively disabled (column 4 lines 51-52).

As per claim 18, Petrecca also teaches a system wherein deletion the commercial message in the memory is selectively enabled (Column 4 lines 52-53).

As per claim 20, Petrecca also teaches a system wherein the commercial message is selectively saved for future display on the display device (Column 3 lines 7-12).

9. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petrecca et al ("Petrecca", US# 5781894) in view of Anderson ("Anderson", US# 6438750).

As per claim 23, Petrecca fails to disclose a system wherein the waiting time is the boot time. However, Anderson teaches a system wherein the user waiting time comprises a boot time of the computer (Column 4 lines 1-4). Therefore it would have been obvious to an artisan at the time of the invention to combine Petrecca's system with Anderson's teaching to utilize a waiting time such as boot time for advertising messages or the like.

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson ("Anderson", US# 6438750) in view of Cozza ("Cozza", US# 5502815).

As per claim 8, Anderson fails to disclose a method wherein the waiting time is a virus-scan time. However Cozza teaches a method wherein the user waiting time comprises a virus-scan time of a storage medium of the computer (Column 2 lines 26-29). Therefore it would have been obvious to an artisan at the time of the invention to combine Anderson's method with Cozza's teaching to utilize the waiting time of a virus-scan to advertise messages or the like.

11. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petrecca et al ("Petrecca", US# 5781894) in view of Cozza ("Cozza", US# 5502815).

As per claim 25, Petrecca fails to disclose a method wherein the waiting time is a virus-scan time. However Cozza teaches a method wherein the user waiting time comprises a virus-scan time of a storage medium of the computer

(Column 2 lines 26-29). Therefore it would have been obvious to an artisan at the time of the invention to combine Petrecca's method with Cozza's teaching to utilize the waiting time of a virus-scan to advertise messages and the like.

12. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson ("Anderson", US# 6438750) in view of Havinga et al ("Design techniques for low power systems".)

As per claim 6, Anderson fails to disclose a method during a waiting time wherein the time is the wake-up time from a low power mode. However, Havinga teaches a user waiting time comprising a computer wake-up time from a low power mode (page 7 lines 12-13). Therefore, it would have been obvious to an artisan at the time of the invention to combine Anderson's method with Havinga's teaching to utilize the waiting time of a wakeup from a low power mode to advertise messages and the like.

13. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petrecca et al ("Petrecca", US# 5781894) in view of Havinga et al ("Design techniques for low power systems".)

As per claim 24, Anderson fails to disclose a method during a waiting time wherein the time is the wake-up time from a low power mode. However, Havinga teaches a user waiting time comprising a computer wake-up time from a low power mode (page 7 lines 12-13). Therefore, it would have been obvious to an artisan at the time of the invention to combine Petrecca's method with Havinga's teaching to utilize the waiting time of a wakeup from a low power mode to advertise messages and the like.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Van Hoff et al (US# 5959623) –System and method for displaying user selected set of advertisements.
- Gorbet et al (US# 6542163) – Method and system for providing relevant tips to a user of an application program.
- Hoyle (US# 6141010) – Computer interface mehod and apparatus with targeted advertising.
- Krishan et al. (US# 6442529) – Methods and apparatus for delivering targeted information and advertising over the internet.
- Delo et al (US# 6345386) – Method and system for advertising applications.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan F Pitaro whose telephone number is 703-605-1205. The examiner can normally be reached on 7:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on 703-308-0640. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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RFP

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